UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,273	10/23/2001	Tal Givoly	XACTP010	1246

			EXAMINER
28875	7590	02/23/2006	JEAN, FRANTZ B

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ART UNIT	PAPER NUMBER
2151	

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/039,273	GIVOLY ET AL.
	Examiner	**Art Unit**	
	Frantz B. Jean	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>23 October 2001</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-22</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-22</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10/21/02</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

DETAILED ACTION

This is a first action in response to application for patent filed on 10/23/01. Claims 1-22

are presented for examination.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 10/21/02 is in

compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure

statement is being considered by the examiner.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-20 are rejected under 35 U.S.C. 101 because they are directed to a

computer program product for contract-based aggregation. The preamble does not

recite any machine to execute the program and the body of the claim has no steps that

require use of hardware to accomplish the steps.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Bullard US Application Number 2002/0091636 A1.

As per claims 1, 11, and 21, Bullard teaches a computer program product, a system and a method for contract-based aggregation (see figs 1, 31; paragraph 0187 and 0193), comprising: (a) receiving records (data collection/record) indicative of network events, wherein the records are received in at least one aggregator (flow aggregation processor/flow data collector) for the purpose of aggregating the records (see figs 1-3; par 0030-0034); (b) identifying contracts associated with the records (fig 31; par 0187, 0191-0193; par 0073-0075); and (c) aggregating the records based at least in part on the contracts using the at least one aggregator (figs 1-3, 8A, 8B, 31; abstract; par 0079; par 0193; par 0040-0041).

As per claims 2 and 12, Bullard teaches a method and a product, wherein the contracts are between a customer and a service provider operating the aggregator (fig 31; par 0045-0047; par 0193).

As per claims 3 and 13, Bullard teaches a method and a computer program product, wherein the contracts are for different levels of services to be provided to the customer (fig 1-3, 31 par 0193).

As per claims 4 and 14, Bullard teaches a method and a computer program product, wherein the contracts are for different services to be provided to the customer (figs 1-3; 31; par 0193); par 0030-0034).

As per claims 5 and 15, Bullard teaches a method and a computer program product, wherein a contract identifier is included as a component of the records (fig 31, 1-3, 8; par 0187; 0191-0193).

As per claims 6 and 16, Bullard teaches a method and a computer program product, wherein a speed with which the records are aggregated is based on the contracts (fig 31, 1-3, 8; par 0187; 0191-0193).

As per claims 7 and 17, Bullard teaches a method and a computer program product, wherein an amount of data processed while the records are aggregated is based on the contracts (fig 31, 1-3, 8; par 0187; 0191-0193; par 0030-0034).

As per claims 8 and 18, Bullard teaches a method and a computer program product, wherein the data is selected from the group consisting of a customer identifier, a service identifier, a source identifier, a destination identifier, a records size identifier, and a quality of service identifier (fig 8A-8B; par 0074-0077; par 0097).

As per claims 9 and 19, Bullard teaches a method and a computer program product,

and further comprising separating the records into separate groups based on the contracts, and aggregating the records of each group using a separate aggregator (see fig 31; par 0190-0193 separate the records into group, wherein company X information/packet is likely to be transmitted first and have a better service than Company Y because Company X is paying for a better service or has a better contract than Company Y).

As per claims 10 and 20, Bullard teaches a method and a computer program product, and further comprising aggregating the records to generate separate aggregations using a single aggregator (see fig 1-3).

As per claim 22, Bullard teaches a method for contract-based aggregation, comprising: (a) receiving records indicative of network events, wherein the records include a customer identifier, a service identifier, a source identifier, a destination identifier, a records size identifier, and a quality of service identifier; (b) identifying contracts associated with the records, wherein the contracts indicate an amount of aggregation to be performed, a speed with which the aggregation is to be performed, and a group with which the records are associated; (c) separating the records into the separate groups based on the contracts; and (d) aggregating the records of each group using a separate aggregator; (e) wherein the records are aggregated a certain amount at a certain speed based at least in part on the contracts using the associated aggregator.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shea et al. 6,064,881 discloses a technique for gathering, sorting and distributing usage data records. The system includes separating/sorting the records into separate groups based on the contracts, and aggregating the records of each group using a separate aggregator (see fig 3, elements 62, 74, 64 and 66; abstract; summary of the invention).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is 571-272-3937. The examiner can normally be reached on 8:30-6:00   M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571 272 3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FRANTZ B. JEAN
PRIMARY EXAMINER

Frantz Jean